

1 PAUL J. SMOOT, SBN 160787
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 3 1720 S. Amphlett Blvd., Suite 104
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 5 Telephone (650) 548-0900
 6 Facsimile (650) 548-0901

7 UNITED STATES DISTRICT COURT
 8 FOR THE EASTERN DISTRICT OF VIRGINIA

9	Brian Martin and Marko Princip, Individually,	}	Case No.:
10	Plaintiffs,		DECLARATION OF PAUL J. SMOOT IN
11	v.	}	SUPPORT OF OPPOSITION TO
12			TEMPORARY RESTRAINING ORDER
13	A.L., a minor; and Abby Lovinger an Adam	}	Date: Dec. 2, 2013
14	Lovinger, Individually and as next best friend		Time: TBA
15	of A.L., their minor son,	}	Hon. Henry Hudson
16	Defendants.		

17 I, PAUL J. SMOOT, declare:

- 18 1. I am an attorney at law duly admitted to practice before all the courts of the State of
- 19 California and the United States District Court, Northern District, and I am the attorney of
- 20 record for Abby Lovinger and Adam Lovinger, plaintiffs in a state action filed on October
- 21 25, 2013, against MARKO PRINCIP and BRIAN MARTIN for civil extortion, fraud and
- 22 breach of contract, among other causes of action.
- 23 2. This declaration is submitted in support of the Lovingers' opposition to the ex parte
- 24 application for temporary restraining order and/or preliminary injunction by PRINCIP and
- 25 MARTIN.
- 26 3. On November 26, 2013, I was personally served with an Order by a process server, Mr.
- 27 Vorsatz, from Gotcha process servers. Mr. Vorsatz asked my name, and specifically stated,
- 28 "I have an order for you." He then handed me the [Proposed] Order and attachments. I have

1 read the ex parte application by plaintiffs and submit this declaration on behalf of the
 2 Lovingers and in support of their opposition.

3 Initial Complaint - Superior Court of California, In and for The County of San Mateo County

- 4 4. On October 25, 2013, I participated in a conference call with Mark Allenbaugh, Esq. Mr.
 5 Allenbaugh stated that he represented Marko Princip and Brian Martin. Subsequent to the
 6 conclusion of our conference call, Mr. Allenbaugh sent me an email, the text of which is as
 7 follows:

8 Mark Allenbaugh <mark@allenbaughlaw.com> Fri, Oct 25, 2013 at 11:38 AM
 9 To: pjsmoot@gmail.com
 10 Cc: coronalaw@aol.com, Tanya Swansegar <Assistant@allenbaughlaw.com>
 11 Mr. Smoot:

12 Thank you for speaking with me this morning. Please be advised that my firm along with the
 13 Law Offices of Thomas R. Chapin now represent Mr. Marko Princip in the matter involving
 14 ownership of the VideoGames youtube channel. From our conversation, it is my
 15 understanding that you represent Andrew Lovinger, as well as his parents Adam and Abigail
 16 "Abby" Lovinger of 13176 FAWNBOROUGH RD, MONTEPELIER, VA 23192-3058,
 17 HANOVER COUNTY.

18 It is also my understanding that you represent a California entity known as Lovinger YT
 19 Video Games (please note I could find no evidence of registration of any kind for such an
 20 entity in the State of California). You represented that Lovinger YT Video Games now owns
 21 the intellectual property under dispute. If any of the above is incorrect, please advise
 22 immediately.

23 Our clients are the sole, 100% owners of the VideoGames youtube channel. Your clients
 24 have wrongfully obtained access to this valuable intellectual property. *Your clients hereby*
 25 *are demanded to immediately cease and desist from any further wrongful access and*
 26 *utilization of said intellectual property, and have until midnight EST tonight, October 25,*
 27 *2013, in which to relinquish any and all control of the channel and revert the same to our*
 28 *clients, or unfortunately, litigation will commence without delay. (Emphasis added.)*

Most sincerely yours,
 -Mark

- 20 5. As a result of the email, on that same day, October 25, 2013, I filed a civil complaint in the
 21 Superior Court of California, In and For the County of San Mateo, Case No. CIV 524942, on
 22 behalf of the Lovingers, attached as Exhibit 6 to plaintiffs' Ex Parte application. San Mateo
 23 County, the county for service of the registered agent of YouTube and the venue agreed upon
 24 by Marko Princip and the Lovingers in the Settlement Agreement executed by Marko Princip
 25 on multiple separate occasions. The complaint was not initially served because it appeared
 26 as though resolution would be possible. (Service of the summons, complaint and ADR
 27 package must be completed within 60 days of initial filing. [Local Rule 2.3(d)(1) County of
 28 San Mateo Superior Court.])

MARKO PRINCIP AND BRIAN MARTIN Communicated by Telephone and Email

6. I was able to routinely communicate with both Brian Martin and Marko Princip by telephone and email. I obtained Mr. Martin's telephone number from his initial emails to Mr. Lovinger:

Exhibit 1:

----- Forwarded message -----

From: Brian D'Mart

Date: Wednesday, September 25, 2013

Subject: Regarding Your Son, [REDACTED] Lovinger (Criminal Theft of VideoGames)

To: pierpressure01@gmail.com

To Mr. Lovinger,

This is Brian Martin, on behalf of myself and Marko. I myself am almost 30 years old, Marko mid 20's. We are not children. We are two business partners who had a channel on YouTube called VideoGames in which your Son, [REDACTED] Lovinger stole and had one of his parents (You or Abby) to co-sign for the channel to get paid from.

Let me remind you that [REDACTED] was an uploader on the channel and legally he is not allowed to keep the channel let alone steal the channel and the money to be made from it. At the time the channel was making over \$15,000 a month and [REDACTED] stole the channel and locked the owners out of the channel and proceeded to sign contracts and claim the money and the channel and the property.

This is a class felony, so please take this serious. Marko, was away on college so this took several months to take action on. Now that Marko is out and the channel is still in the hands of Drew (Whom stole the channel and the money) we are liable to take action.

One route I do not want to do is call the FBI and have them arrest everyone involved here including the co-signer (perhaps his mother) in this ordeal. I am asking you to have [REDACTED] return our channel back to us. We have all of the necessary documentation including the original email this channel was assigned to before [REDACTED] stole the channel and changed the email and everything inside of it.

This is a very serious offense. The channel is called videogames has made over \$200,000 of money stolen by [REDACTED]. We do not want to contact the FBI but if you sit [REDACTED] down and explain to him what happened he will tell you that Marko didn't pay him enough money and he stole the channel because of it. [REDACTED] was simply asked to upload content on the channel and he had no authority to steal the channel for himself and create a mass income over stolen content. I need that channel returned back to me immediately.

Please let [REDACTED] know this is a very serious situation. I have all documentation to either proceed with the FBI or sue him (whom ever signed it) in court. The original owners, myself and Marko, did not give permission to [REDACTED], please have our property and business returned back to us.

You can contact me at this email and my cell number that I will write below. Please make sure that [REDACTED] returns the channel back to the owners. He is in violation to the United States Criminal Felony Offense Level 3 of theft of over \$100,000.

I appreciate your time. Please keep me in contact for a resolution in 24 hours. Speak to [REDACTED] and by Friday I'd like to see him return the channel back without delay to the ones

1 who legally own it. If you would like to speak about this further, please don't hesitate to
 2 call me or email me with your questions in regards to this very important matter.

3 Best, Brian D Martin
 4 949-230-3459

5 Exhibit 2:

6 ----- Forwarded message -----

7 From: Brian D'Mart

8 Date: Thursday, September 26, 2013

9 Subject: Please respond as soon as possible

10 To: Adam Lovinger <pierpressure01@gmail.com>

11 Mr. Adam Lovinger, i'd like to get this resolved as soon as possible. I do not want to take
 12 severe action against your Son for committing these crimes. All I and my business partner
 13 are asking for is the channel to be returned back to us immediately. I have all evidence I
 14 need to have [REDACTED] locked up for felony theft. Please do not allow this to happen. [REDACTED]
 15 will either lie to you and tell you it is his channel or he will tell you the truth that he stole
 16 it and locked the owners out and had Abby or yourself sign a fraudulent contract worth
 17 thousands. This is a severe case.

18 I'd like you to have him return my intellectual property and business immediately. I am
 19 busy today, you may call my cell phone for a quicker contact. Thank you.

20 Brian
 21 949-230-3459

22 7. On September 27, 2013, at approximately 1:22 p.m. I contacted Mr. Martin using the number
 23 provided to the Lovingers: 949-230-3459. I spoke with Mr. Martin for approximately 12
 24 minutes. I obtained Marko Princip's telephone number, 214-662-8246, from Brian Martin.
 25 I then contacted Mr. Princip and spoke with Mr. Princip for approximately 5 minutes. I then
 26 contacted both Martin and Princip by email and arranged a telephone conference through Free
 27 Conference Call. The dial in number was 712-432-1500. Attached hereto as Exhibit 3 and
 28 incorporated herein by reference is a true and correct copy of that email.

8. On September 27, 2013, at approximately 2:18 p.m. (PST) Martin and Princip participated
 in a telephone conference call with me on Free Conference Call for approximately 13
 minutes. Thereafter, Martin sent two emails, Exhibit 4 and Exhibit 5, with his purported
 evidence that [REDACTED] Lovinger stole the video channel now in dispute. Of specific interest is
 the YouTube video Martin and Princip created in which Martin admits that he (Martin) never
 had an interest in the channel. Martin specifically stated his information about the channel
 and ownership came from his friend, the owner of the channel. The YouTube Video is no
 longer available for public viewing. Attached hereto as Exhibit 4 and 5 and incorporated

- 1 herein by reference are true and correct copies of those emails.
- 2 9. Martin directed emails to me without copying Princip. Attached hereto as **Exhibit 6** and
3 incorporated herein by reference is a true and correct copy of that email. After receiving the
4 YouTube video and Martin's email, I contacted both Martin and Princip and expressed some
5 concerns and requested another conference call. Attached hereto as **Exhibits 7 through 9a**
6 and incorporated herein by reference are true and correct copies of those emails. Marko
7 Princip acknowledged the emails and participated in the conference call on September 30,
8 2013. The conference call included both Martin and Princip and lasted approximately 18
9 minutes. There was a general understanding of the initial terms proposed by Martin and
10 Princip and I agreed to draft the initial agreement. Attached hereto as **Exhibits 10 through**
11 **12** and incorporated herein by reference are true and correct copies of those emails.
- 12 10. On October 2, 2013, I contacted Martin and Princip, by email and telephone. Initially, it
13 appeared as though the parties continued to move forward with the settlement of the dispute.
14 During this time, based upon statements by Princip, Martin was attempting to scuttle the
15 resolution of the dispute and disparage Lovinger. Attached hereto as **Exhibits 13 through**
16 **19** and incorporated herein by reference are true and correct copies of those emails.
- 17 11. On October 3, 2013, I asked Princip to contact me. Attached hereto as **Exhibit 20** and
18 incorporated herein by reference is a true and correct copy of that email. I left a message
19 about a proposal on October 3, 2013 at 2:47 p.m. Princip responded by email. Attached
20 hereto as **Exhibit 21** and incorporated herein by reference is a true and correct copy of that
21 email. I then spoke with Princip at 5:00 p.m. and briefly discussed the proposal. See Exhibit
22 45.
- 23 12. I continued to speak to Princip on October 4, 2013, on five separate occasions for a total of
24 approximately 18 minutes regarding the nature of the circumstances of the case and a revised
25 proposal.
- 26 13. On October 7, 2013, I attempted to arrange a conference call with all parties. Attached hereto
27 as **Exhibits 22 and 23** and incorporated herein by reference are true and correct copies of
28 those emails. Thereafter, I received an email from Martin rejecting any proposal. Attached

1 hereto as **Exhibit 23a** and incorporated herein by reference is a true and correct copy of that
2 email.

3 14. On October 8, 2013, I received another email from Princip. Attached hereto as **Exhibit 24**
4 and incorporated herein by reference is a true and correct copy of that email. On October 9,
5 2013, I responded. Attached hereto as **Exhibit 25** and incorporated herein by reference is a
6 true and correct copy of that email. Princip responded to my emails by contacting me by
7 telephone and we spoke on two occasions of October 9, 2013. Princip was in agreement with
8 Lovinger to accept a percentage of revenue for a fixed term.

9 15. Princip repeatedly stated that he did not have a written agreement with Martin, and that
10 Martin was trying to obtain a written agreement demonstrating Martin had an ownership
11 interest in the channel. On October 10, 2013, Princip advised that he "sorted everything out"
12 with Martin and he, Princip, was moving forward with the agreement with Lovinger to accept
13 a percentage for a fixed term. Attached hereto as **Exhibits 26 and 27** and incorporated herein
14 by reference are true and correct copies of those emails. Shortly after my communication
15 with Princip, I received an email from Martin. Attached hereto as **Exhibit 29** and
16 incorporated herein by reference is a true and correct copy of that email.

17 16. On October 10, 2013, Princip confirmed he agreed to moving forward with the agreement
18 with Lovinger to accept a percentage for a fixed term.

19 17. On October 11, 2013, Princip reaffirmed the agreement by email. As a result, I prepared the
20 settlement agreement proposed and agreed to between Princip and Lovinger. Over the next
21 few days, emails were exchanged regarding the final settlement agreement, including
22 acknowledgment of the agreement and executing the agreement on two separate occasions.
23 Attached hereto as **Exhibits 30 through 39** and incorporated herein by reference are true and
24 correct copies of those emails. On October 14, 2013, I received an email from Princip that
25 he sent the agreement, signed a second time in blue, to me by mail. The document was
26 received via FedEx. Attached hereto as **Exhibit 40** and incorporated herein by reference is
27 a true and correct copy of that email.

28 18. On October 15, 2013, Princip reaffirmed the agreement and emailed that he broke off contact

1 with Martin. Attached hereto as **Exhibit 41** and incorporated herein by reference is a true and
 2 correct copy of that email.

3 19. On October 20, 2013, I spoke to Princip at approximately 1:28 p.m. (PST). He was concerned
 4 that Martin was going to sue him. I told him not to worry, if he really owned the channel and
 5 did not have an agreement with Martin, he had nothing to worry about.

6 20. On October 23, 2013, Princip advised me he was concerned about being sued by Martin.

7 21. On October 24, 2013, I spoke with Princip on several occasions within an hour, i.e., between
 8 12:06 p.m. and 2:05 p.m. (PST) and received emails from him. Specifically, Princip was
 9 terrified that he was going to be sued by someone representing Martin. I asked Princip to
 10 write down exactly what was said to him, and send it to me in an email.

11 Email 42:

12 Marko Princip <my.raw.nerve@gmail.com> Thu, Oct 24, 2013 at 9:34 AM
 13 To: Paul Smoot <pjsmoot@gmail.com>

14 The call started and he asked me what role with the channel was. I told him the channel
 15 was mine from the start the email markoguide1693@gmail.com was mine.
 16 He said if I planned to sign all of the rights over to Brian. I told him no. He then said if I
 17 don't he's going to sue me. And do a determinant judgement - I believe that was the exact
 18 term he used.

19 He said I have before Friday morning to get back to him.
 20 If I need to hire you, in order for you to help me with this. I gladly will.

21 Best,
 22 Marko

23 Email 43:

24 Marko Princip <my.raw.nerve@gmail.com> Thu, Oct 24, 2013 at 10:05 AM
 25 To: Paul Smoot <pjsmoot@gmail.com>

26 The person who called me was Mark Allenbaugh.
 27 I can get testimonies from Machinima employees that I am the original owner. I have
 28 screenshots of emails saying I am the owner - I will get them to you.
 29 Also if you'd like I have messages of Brian telling me very serious threats on [REDACTED].
 30 Yeah let me know if you can do the joint representation.

31 Best,
 32 Marko

33 Attached hereto as **Exhibits 42 and 43** and incorporated herein by reference are true and
 34 correct copies of those emails.

35 22. Princip stated that Martin was also attempting to get him to sign over his interest to him.

- 1 Attached hereto as **Exhibit 44** and incorporated herein by reference is a true and correct
2 copy of that email.
- 3 23. Princip also sent a internet/skype dialogue he maintained with Martin. Attached hereto as
4 **Exhibit 45** and incorporated herein by reference is a true and correct copy of that email.
- 5 24. Princip contacted me by email on the evening of October 24, 2013. Attached hereto as
6 **Exhibit 46** and incorporated herein by reference is a true and correct copy of that email. He
7 was sounded terrified about being sued. He asked if I could represent him. I said I could not
8 unless he was sued by Martin also, then perhaps we enter into a joint defense agreement.
- 9 25. October 25, 2013, at 9:50 a.m., was the last time I spoke to Marko Princip. Thereafter, I
10 received an email from Mr. Allenbaugh stating that he was also representing Princip.
- 11 MARKO PRINCIP Executed the Same Settlement Agreement Multiple Times.
- 12 26. I communicated extensively with Marko Princip over the telephone and email regarding the
13 dispute over the ownership of the channel and settlement of the dispute. At no time did
14 Marko Princip ever communicate to me that he had no interest in resolving the dispute, or,
15 alternatively, that he did not want to execute the settlement agreements attached to my
16 declaration. Mr. Princip executed multiple settlement agreements. On Oct 11, 2013 at 1:21
17 PM, I sent the settlement to both email addresses of Mr. Princip and asked for his contact
18 information to include in the settlement agreement. Attached hereto as **Exhibit 47** and
19 incorporated herein by reference is a true and correct copy of that email and the settlement
20 agreement attached.
- 21 27. On Oct 11, 2013 at 1:24 PM Mr. Princip responded with his address. Attached hereto as
22 **Exhibit 48** and incorporated herein by reference is a true and correct copy of that email.
- 23 28. On Oct 11, 2013 at 2:05 PM Mr. Princip sent another emailing stating: "Just looked over the
24 agreement, everything looks good to me. I need to drive to my dad's office in order to scan
25 it, so I will have it sent completed to you tomorrow morning." Attached hereto as **Exhibit 49**
26 and incorporated herein by reference is a true and correct copy of that email.
- 27 29. On Oct 11, 2013 at 2:10 PM, I sent the settlement agreement with Mr. Princip's contact
28 information. Attached hereto as **Exhibit 50** and incorporated herein by reference is a true

- 1 and correct copy of that email and the settlement agreement attached.
- 2 30. On Oct 11, 2013 at 2:53 PM Mr. Princip stated he would have the completed version back
3 to me. Attached hereto as **Exhibit 51** and incorporated herein by reference is a true and
4 correct copy of that email.
- 5 31. On Oct 12, 2013 at 9:34 AM Mr. Princip sent the executed settlement agreement. Attached
6 hereto as **Exhibit 52** and incorporated herein by reference is a true and correct copy of that
7 email and the settlement agreement attached.
- 8 32. On Oct 12, 2013 at 10:35 AM I asked that a copy with the original signature be sent to my
9 office. Minutes later, Mr. Princip responded stating he would mail it Monday morning.
10 Attached hereto as **Exhibit 53** and incorporated herein by reference is a true and correct
11 copy of that email trail. About 30 minutes later, Mr. Princip sent an email I did not receive
12 until later that evening stating he was able to get it out priority mail. Attached hereto as
13 **Exhibit 54** and incorporated herein by reference is a true and correct copy of that email.
- 14 33. On October 12, 2013, at 6:07 PM I requested Mr. Princip sign the settlement agreement in
15 blue ink and send the original signature to my office. Attached hereto as **Exhibit 55** and
16 incorporated herein by reference is a true and correct copy of that email. Mr. Princip
17 acknowledged the black ink signature had been sent and agreed to send a blue ink signature.
18 Attached hereto as **Exhibit 56** and incorporated herein by reference is a true and correct
19 copy of that email trail.
- 20 34. On October 14, 2013, I received this settlement agreement, dated October 12, 2013, executed
21 by Marko Princip in black ink. Attached hereto as **Exhibit 57** and incorporated herein by
22 reference is a true and correct copy of that settlement agreement.
- 23 35. On October 15, 2013, I received this settlement agreement, dated October 14, 2013, executed
24 by Marko Princip in blue ink. Attached hereto as **Exhibit 58** and incorporated herein by
25 reference is a true and correct copy of that settlement agreement.
- 26 36. I spoke with Mr. Princip over the telephone on multiple occasions. Mr. Princip agreed to the
27 settlement in Exhibits 50, 52, 57 and 58. At no time did Mr. Princip ever advise he was not
28 interested in the settlement, or that he refused to sign the settlement agreement. On the

1 contrary, Mr. Princip stated he wanted this matter behind him and wanted to concentrate on
2 his studies at University of Texas.

3 37. On December 2, 2013, Defendants Princip and Martin were served in the matter before the
4 Superior Court of California, In and For the County of San Mateo, Case No. CIV 524942.
5 Attached hereto collectively as **Exhibit 59** and incorporated herein by reference is a true and
6 correct copy of the Proof of Service for each defendant.

7 I declare under penalty of perjury under the laws of the state of California that the foregoing
8 is true and correct.

9 Executed this 11th day of December 2013, at San Mateo, CA.

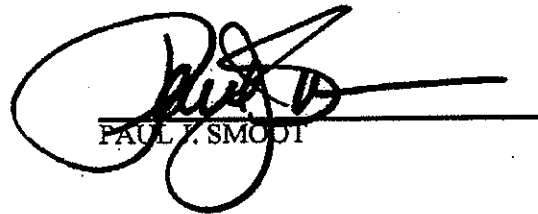
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13 PAUL J. SMOOT
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EXHIBIT 1

Gmail - Fwd: Regarding Your Son, Drew Lovinger (Criminal Theft of VideoGames)



Paul Smoot <pjsmoot@gmail.com>

Fwd: Regarding Your Son, [REDACTED] Lovinger (Criminal Theft of VideoGames)

1 message

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

----- Forwarded message -----

From: Brian D'Mart
Date: Wednesday, September 25, 2013
Subject: Regarding Your Son, [REDACTED] Lovinger (Criminal Theft of VideoGames)
To: pierpressure01@gmail.com

To Mr. Lovinger,

This is Brian Martin, on behalf of myself and Marko. I myself am almost 30 years old, Marko mid 20's. We are not children. We are two business partners who had a channel on YouTube called VideoGames in which your Son, [REDACTED] Lovinger stole and had one of his parents (You or Abby) to co-sign for the channel to get paid from.

Let me remind you that [REDACTED] was an uploader on the channel and legally he is not allowed to keep the channel let alone steal the channel and the money to be made from it. At the time the channel was making over \$15,000 a month and [REDACTED] stole the channel and locked the owners out of the channel and proceeded to sign contracts and claim the money and the channel and the property.

This is a class felony, so please take this serious. Marko, was away on college so this took several months to take action on. Now that Marko is out and the channel is still in the hands of [REDACTED] (Whom stole the channel and the money) we are liable to take action.

One route I do not want to do is call the FBI and have them arrest everyone involved here including the co-signer (perhaps his mother) in this ordeal. I am asking you to have [REDACTED] return our channel back to us. We have all of the necessary documentation including the original email this channel was assigned to before [REDACTED] stole the channel and changed the email and everything inside of it.

This is a very serious offense. The channel is called videogames has made over \$200,000 of money stolen by [REDACTED] We do not want to contact the FBI but if you sit [REDACTED] down and explain to him what happened he will tell you that Marko didn't pay him enough money and he stole the channel because of it. [REDACTED] was simply asked to upload

Gmail - Fwd: Regarding Your Son, Drew Lovinger (Criminal Theft of VideoGames)

content on the channel and he had no authority to steal the channel for himself and create a mass income over stolen content. I need that channel returned back to me immediately.

Please let [REDACTED] know this is a very serious situation. I have all documentation to either proceed with the FBI or sue him (whom ever signed it) in court. The original owners, myself and Marko, did not give permission to [REDACTED], please have our property and business returned back to us.

You can contact me at this email and my cell number that I will write below. Please make sure that [REDACTED] returns the channel back to the owners. He is in violation to the United States Criminal Felony Offense Level 3 of theft of over \$100,000.

I appreciate your time. Please keep me in contact for a resolution in 24 hours. Speak to [REDACTED] and by Friday i'd like to see him return the channel back without delay to the ones who legally own it. If you would like to speak about this further, please don't hesitate to call me or email me with your questions in regards to this very important matter.

Best, Brian D Martin
949-230-3459

EXHIBIT 2

Gmail - Fwd: Please respond as soon as possible



Paul Smoot <pjsmoot@gmail.com>

Fwd: Please respond as soon as possible

1 message

[REDACTED]

----- Forwarded message -----

From: Brian D'Mart

Date: Thursday, September 26, 2013

Subject: Please respond as soon as possible

To: Adam Lovinger <pierpressure01@gmail.com>

Mr. Adam Lovinger, I'd like to get this resolved as soon as possible. I do not want to take severe action against your Son for committing these crimes. All I and my business partner are asking for is the channel to be returned back to us immediately. I have all evidence I need to have [REDACTED] locked up for felony theft. Please do not allow this to happen. [REDACTED] will either lie to you and tell you it is his channel or he will tell you the truth that he stole it and locked the owners out and had Abby or yourself sign a fraudulent contract worth thousands. This is a severe case.

I'd like you to have him return my intellectual property and business immediately. I am busy today, you may call my cell phone for a quicker contact. Thank you.

Brian

949-230-3459

EXHIBIT 3

Gmail - VideoGames



Paul Smoot <pjsmoot@gmail.com>

VideoGames

1 message

Paul Smoot <pjsmoot@gmail.com>

Fri, Sep 27, 2013 at 1:56 PM

To: my3Dworldyt@gmail.com, princip.marko@gmail.com

Gentlemen:

Thank you for speaking to me. I have set up our conference call at 2:15 p.m. PST.

14:15 Hrs PST

Conference Dial-in Number: (712) 432-1500

Participant Access Code: 324242#

Regards,

Paul Smoot

--
Paul J. Smoot
Law Office of Paul J. Smoot
1720 S. Amphlett Blvd., Suite 104
San Mateo, CA 94402
T: (650) 548-0900
F: (650) 548-0901

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To reply, send an email to pjsmoot@gmail.com.

EXHIBIT 4

Gmail - Re: VideoGames



Paul Smoot <pjsmoot@gmail.com>

Re: VideoGames

1 message

Brian D'Mart <my3dworldyt@gmail.com>

Fri, Sep 27, 2013 at 2:27 PM

To: Paul Smoot <pjsmoot@gmail.com>

<http://www.youtube.com/watch?v=T1rkb2dTKxc>

On Fri, Sep 27, 2013 at 1:56 PM, Paul Smoot <pjsmoot@gmail.com> wrote:

Gentlemen:

Thank you for speaking to me. I have set up our conference call at 2:15 p.m. PST.

14:15 Hrs PST

Conference Dial-in Number: (712) 432-1500

Participant Access Code: 324242#

Regards,

Paul Smoot

--
Paul J. Smoot
Law Office of Paul J. Smoot
1720 S. Amphlett Blvd., Suite 104
San Mateo, CA 94402
T: (650) 548-0900
F: (650) 548-0901

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To reply, send an email to pjsmoot@gmail.com.

EXHIBIT 5

Gmail - Re: VideoGames



Paul Smoot <pjsmoot@gmail.com>

Re: VideoGames

1 message

Brian D'Mart <my3dworldyt@gmail.com>
To: Paul Smoot <pjsmoot@gmail.com>

Fri, Sep 27, 2013 at 2:46 PM

Mr. Smoot,

Thank you for taking time in speaking to Marko and myself about this very important matter. Please refer to the attachment files for the screenshot proof of ownership you requested. One of the screenshots has a key original first password to VideoGames channel on YouTube. Please keep this confidential for your records. Thank you for your time and we look forward to resolution on Monday.

Have a great weekend.

Regards,
Brian and Marko

On Fri, Sep 27, 2013 at 1:56 PM, Paul Smoot <pjsmoot@gmail.com> wrote:
Gentlemen:

Thank you for speaking to me. I have set up our conference call at 2:15 p.m. PST.

14:15 Hrs PST

Conference Dial-in Number: (712) 432-1500

Participant Access Code: 324242#

Regards,

Paul Smoot

--
Paul J. Smoot
Law Office of Paul J. Smoot
1720 S. Amphlett Blvd., Suite 104
San Mateo, CA 94402
T: (650) 548-0900
F: (650) 548-0901

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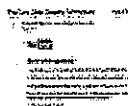
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Gmail - Re: VideoGames

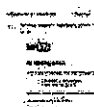
sender by reply email and delete all copies of this message.

To reply, send an email to pjsmoot@gmail.com.

3 attachments



VideoGamesProof_1.png
47K



VideoGamesProof_2.png
39K



VideoGamesProof_3.png
272K

EXHIBIT 6

Gmail - VideoGames Owner - Settlement Plea



Paul Smoot <pjsmoot@gmail.com>

VideoGames Owner - Settlement Plea

1 message

Brian D'Mart <my3dworldyt@gmail.com>
To: Paul Smoot <pjsmoot@gmail.com>

Sat, Sep 28, 2013 at 11:53 PM

Mr. Paul Smoot,

This is Brian, VideoGames owner. I would like to have this in writing based on our talks Friday. Given that I have provided heavy evidence of my claim to VideoGames channel on YouTube, I'd like to go ahead and let you know my terms and they are generous as ever. I could have people put in prison for grand theft (Over \$100,000) and I could easily have [REDACTED] Lovinger's parents sued the amount they have made from my channel this year but I will go ahead and make this as simple as possible and as quick.

These are my terms below. Because [REDACTED] has ties with hackers and people who may try and destroy my channel once it is returned to me, I'd like these terms agreed on. I understand [REDACTED] will not be able to legally agree, so his parents will have to agree as it seems his parents will need to be the ones to hand over my channel.

1. [REDACTED] is not to do anything to harm my VideoGames channel. This includes: Twitter posts, public harassment and bullying, etc. I don't want him defaming my channel.
2. [REDACTED] is to either close down his twitter/and every social media that bares my channel name VideoGames, or, he can hand it to me. The twitter was also taken from me when he stole my channel in January 2013.
3. The VideoGames channel to be handed back to me and in return I will drop all charges. I will not press the issue further nor will I ask for compensation or losses. I feel that by doing this it would be simple for [REDACTED] and his parents to release the channel to me and part their way peacefully.

Now, one thing that makes me the owner would be simple. In the video I showed you - I stated Marko was the original owner of VideoGames which Machinima did in fact get signed by Marko AND myself under VideoGames channel however the channel was to be signed officially over to me in January around the time when [REDACTED] stole the channel from Marko and myself. I was to sign it solely in my name, and Marko will be able to vouch for this. Upon returning the channel to me I will sign for it in my name and assure that this will not happen again. I do hope [REDACTED] has been honest with you and confessed of him taking the channel behind our backs.

Anyhow, have a great weekend and I look forward to resolution on Monday.

Thank you,

Best Regards,
Brian Martin of VideoGames

EXHIBIT 7

Gmail - YouTube/Videogames



Paul Smoot <pjsmoot@gmail.com>

YouTube/Videogames

1 message

Paul Smoot <pjsmoot@gmail.com>

Mon, Sep 30, 2013 at 2:38 PM

To: my3dworldyt@gmail.com

Cc: princip.marko@gmail.com, my.raw.nerve@gmail.com

Dear Mr. Martin:

1. My first concern is you continue to refer to the channel as your [Mr. Martin] channel, etc. My understanding from your [Mr. Martin] skype messages to [REDACTED] Lovinger is you did not have an interest in the channel through early July 2013:

[7/8/2013 7:48:17 PM]

"I mean bro I helped you get the channel to yourself. Shouldn't that be worth something?"

Has Mr. Princip sold his right, title and interest to you? [See Item 4.]

2. I am concerned about your repeated threats of "prison" "grand theft" reporting to the "FBI" and "police" if [REDACTED] Lovinger does not turn over the Channel to you [Brian Martin]. The latest threat was made this past Friday.

3. It also appears as though the content on the channel would be the IP of [REDACTED] Lovinger, as well as the subscriber list/base, or, at least 800,000 of the 980,000 subscribers.

4. For a mutually agreeable resolution, Mr. Princip would have to be a full participant in the settlement agreement. I would recommend mutual non-disparagement provisions. I have not yet spoken with [REDACTED] Lovinger, so I have no information about Twitter or other social media.

I would like to set up another conference call later this afternoon with you and Mr. Princip. Are you both available after 4:30 p.m. PST?

Regards,

Paul Smoot

Paul J. Smoot
Law Office of Paul J. Smoot
1720 S. Amphlett Blvd., Suite 104
San Mateo, CA 94402
T: (650) 548-0900
F: (650) 548-0901

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Gmail - YouTube/Videogames

sender by reply email and delete all copies of this message.

To reply, send an email to pjsmoot@gmail.com.

EXHIBIT 8

Gmail - Re: YouTube/Videogames



Paul Smoot <pjsmoot@gmail.com>

Re: YouTube/Videogames

1 message

Marko Princip <my.raw.nerve@gmail.com>

Mon, Sep 30, 2013 at 4:10 PM

To: Paul Smoot <pjsmoot@gmail.com>

Yes I'll be available just send me a email with the conference call details.

Best,

Marko

On Mon, Sep 30, 2013 at 4:38 PM, Paul Smoot <pjsmoot@gmail.com> wrote:

Dear Mr. Martin:

1. My first concern is you continue to refer to the channel as your [Mr. Martin] channel, etc. My understanding from your [Mr. Martin] skype messages to [REDACTED] Lovinger is you did not have an interest in the channel through early July 2013:

[7/8/2013 7:48:17 PM]

"I mean bro I helped you get the channel to yourself. Shouldn't that be worth something?"

Has Mr. Princip sold his right, title and interest to you? [See Item 4.]

2. I am concerned about your repeated threats of "prison" "grand theft" reporting to the "FBI" and "police" if [REDACTED] Lovinger does not turn over the Channel to you [Brian Martin]. The latest threat was made this past Friday.

3. It also appears as though the content on the channel would be the IP of [REDACTED] Lovinger, as well as the subscriber list/base, or, at least 800,000 of the 980,000 subscribers.

4. For a mutually agreeable resolution, Mr. Princip would have to be a full participant in the settlement agreement. I would recommend mutual non-disparagement provisions. I have not yet spoken with [REDACTED] Lovinger, so I have no information about Twitter or other social media.

I would like to set up another conference call later this afternoon with you and Mr. Princip. Are you both available after 4:30 p.m. PST?

Regards,

Paul Smoot

—

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Gmail - Re: YouTube/Videogames

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To reply, send an email to pjsmoot@gmail.com.

EXHIBIT 9

Gmail - YouTube/Videogames



Paul Smoot <pjsmoot@gmail.com>

YouTube/Videogames

1 message

Paul Smoot <pjsmoot@gmail.com>

Mon, Sep 30, 2013 at 4:29 PM

To: Brian D'Mart <my3Dworldyt@gmail.com>, my.raw.nerve@gmail.com

Dial: (712) 432-1202

Access code: 324242#

--

Paul J. Smoot
Law Office of Paul J. Smoot
1720 S. Amphlett Blvd., Suite 104
San Mateo, CA 94402
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To reply, send an email to pjsmoot@gmail.com.

Gmail - Re: YouTube/Videogames



Paul Smoot <pjsmoot@gmail.com>

Re: YouTube/Videogames

1 message

Marko Princip <my.raw.nerve@gmail.com>

Mon, Sep 30, 2013 at 4:32 PM

To: Paul Smoot <pjsmoot@gmail.com>

Doesn't work for some reason asking for a reference code.

Best,

Marko

On Mon, Sep 30, 2013 at 6:29 PM, Paul Smoot <pjsmoot@gmail.com> wrote:

Dial: (712) 432-1202

Access code: 324242#

--

Paul J. Smoot
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To reply, send an email to pjsmoot@gmail.com.

EXHIBIT 10

Gmail - Videogames



Paul Smoot <pjsmoot@gmail.com>

Videogames

2 messages

Paul Smoot <pjsmoot@gmail.com>

Tue, Oct 1, 2013 at 5:05 PM

To: Marko Prince <my.raw.nerve@gmail.com>, "MarkosDadYT ." <princip.marko@gmail.com>, Brian D'Mart <my3Dworldyt@gmail.com>

Dear Messrs. Martin and Princip:

I will have a draft before noon tomorrow.

Thank you.

Paul Smoot

Paul J. Smoot
Law Office of Paul J. Smoot
1720 S. Amphlett Blvd., Suite 104
San Mateo, CA 94402
T: (650) 548-0900
F: (650) 548-0901

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To reply, send an email to pjsmoot@gmail.com.

Paul Smoot <pjsmoot@gmail.com>

Wed, Oct 2, 2013 at 9:30 AM

Draft To: Marko Prince <my.raw.nerve@gmail.com>, "MarkosDadYT ." <princip.marko@gmail.com>, Brian D'Mart <my3Dworldyt@gmail.com>

[Quoted text hidden]

EXHIBIT 11

Gmail - Videogames



Paul Smoot <pjsmoot@gmail.com>

Videogames

2 messages

Paul Smoot <pjsmoot@gmail.com>

Tue, Oct 1, 2013 at 5:05 PM

To: Marko Prince <my.raw.nerve@gmail.com>, "MarkosDadYT ." <princip.marko@gmail.com>, Brian D'Mart <my3Dworldyt@gmail.com>

Dear Messrs. Martin and Princip:

I will have a draft before noon tomorrow.

Thank you.

Paul Smoot

—
Paul J. Smoot
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To reply, send an email to pjsmoot@gmail.com.

Paul Smoot <pjsmoot@gmail.com>

Wed, Oct 2, 2013 at 9:30 AM

Draft To: Marko Prince <my.raw.nerve@gmail.com>, "MarkosDadYT ." <princip.marko@gmail.com>, Brian D'Mart <my3Dworldyt@gmail.com>

[Quoted text hidden]

EXHIBIT 12

Gmail - Re: Videogames



Paul Smoot <pjsmoot@gmail.com>

Re: Videogames

1 message

Marko Princip <my.raw.nerve@gmail.com>

Tue, Oct 1, 2013 at 5:06 PM

To: Paul Smoot <pjsmoot@gmail.com>

Thanks for the update.

Best,

Marko

On Tue, Oct 1, 2013 at 7:05 PM, Paul Smoot <pjsmoot@gmail.com> wrote:

Dear Messrs. Martin and Princip:

I will have a draft before noon tomorrow.

Thank you.

Paul Smoot

Paul J. Smoot
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To reply, send an email to pjsmoot@gmail.com.

EXHIBIT 13

Gmail - Princip/Martin Civil Extortion Matter



Paul Smoot <pjsmoot@gmail.com>

Princip/Martin Civil Extortion Matter

1 message

Paul Smoot <pjsmoot@gmail.com>

Wed, Oct 2, 2013 at 9:33 AM

To: Marko Prince <my.raw.nerve@gmail.com>, "MarkosDadYT ." <princip.marko@gmail.com>, Brian D'Mart <my3Dworldyt@gmail.com>

Dear Messrs. Princip and Martin:

I left a voice mail message for Mr. Martin.

In light of the urgent nature of this issue, I am send this e-mail.

As I understand it, you have been violating the terms of your proposed agreement - non-disparagement.

Am I to assume this means you wish to pursue this matter in court?

Please advise immediately.

Regards,

Paul Smoot

--

Paul J. Smoot
Law Office of Paul J. Smoot
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To reply, send an email to pjsmoot@gmail.com.

EXHIBIT 14

Gmail - Re: Princip/Martin Civil Extortion Matter



Paul Smoot <pjsmoot@gmail.com>

Re: Princip/Martin Civil Extortion Matter

1 message

Marko Princip <my.raw.nerve@gmail.com>

Wed, Oct 2, 2013 at 9:44 AM

To: Paul Smoot <pjsmoot@gmail.com>

Dear Mr. Smoot,

I just spoke with Brian, he said he is going to call you.

Like I said in our first call I'm not looking to pursue anything in court. I had no part in any of the things Brian said to anyone that was all his doing.

Best,

Marko

On Wed, Oct 2, 2013 at 11:33 AM, Paul Smoot <pjsmoot@gmail.com> wrote:

Dear Messrs. Princip and Martin:

I left a voice mail message for Mr. Martin.

In light of the urgent nature of this issue, I am send this e-mail.

As I understand it, you have been violating the terms of your proposed agreement - non-disparagement.

Am I to assume this means you wish to pursue this matter in court?

Please advise immediately.

Regards,

Paul Smoot

--

Paul J. Smoot

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Gmail - Re: Princip/Martin Civil Extortion Matter

To reply, send an email to pjsmoot@gmail.com.

EXHIBIT 15

Gmail - Re: Princip/Martin Civil Extortion Matter



Paul Smoot <pjsmoot@gmail.com>

Re: Princip/Martin Civil Extortion Matter

1 message

Paul Smoot <pjsmoot@gmail.com>
To: Marko Princip <my.raw.nerve@gmail.com>
Cc: Brian D'Mart <my3Dworldyt@gmail.com>

Wed, Oct 2, 2013 at 9:57 AM

Marko,

Thank you for your message.

Brian did call. As I understand it, he now wants you to work directly with me on the settlement.

Please confirm with Brian.

I will require all parties on the agreement.

I will continue to copy you both.

Regards,

Paul Smoot

On Wed, Oct 2, 2013 at 9:44 AM, Marko Princip <my.raw.nerve@gmail.com> wrote:

Dear Mr. Smoot,

I just spoke with Brian, he said he is going to call you.

Like I said in our first call I'm not looking to pursue anything in court. I had no part in any of the things Brian said to anyone that was all his doing.

Best,

Marko

On Wed, Oct 2, 2013 at 11:33 AM, Paul Smoot <pjsmoot@gmail.com> wrote:

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I left a voice mail message for Mr. Martin.

In light of the urgent nature of this issue, I am send this e-mail.

As I understand it, you have been violating the terms of your proposed agreement - non-disparagement.

Am I to assume this means you wish to pursue this matter in court?

Please advise immediately.

Regards,

Paul Smoot

--

Paul J. Smoot

Gmail - Re: Princip/Martin Civil Extortion Matter

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To reply, send an email to pjsmoot@gmail.com.

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To reply, send an email to pjsmoot@gmail.com.

EXHIBIT 16

Gmail - Re: Princip/Martin Civil Extortion Matter



Paul Smoot <pjsmoot@gmail.com>

Re: Princip/Martin Civil Extortion Matter

1 message

Marko Princip <my.raw.nerve@gmail.com>

Wed, Oct 2, 2013 at 10:00 AM

To: Paul Smoot <pjsmoot@gmail.com>

Thanks for the update. I'll look forward to the agreement.

Best,

Marko

On Wed, Oct 2, 2013 at 11:57 AM, Paul Smoot <pjsmoot@gmail.com> wrote:

Marko,

Thank you for your message.

Brian did call. As I understand it, he now wants you to work directly with me on the settlement.

Please confirm with Brian.

I will require all parties on the agreement.

I will continue to copy you both.

Regards,

Paul Smoot

On Wed, Oct 2, 2013 at 9:44 AM, Marko Princip <my.raw.nerve@gmail.com> wrote:

Dear Mr. Smoot,

I just spoke with Brian, he said he is going to call you.

Like I said in our first call I'm not looking to pursue anything in court. I had no part in any of the things Brian said to anyone that was all his doing.

Best,

Marko

On Wed, Oct 2, 2013 at 11:33 AM, Paul Smoot <pjsmoot@gmail.com> wrote:

Dear Messrs. Princip and Martin:

I left a voice mail message for Mr. Martin.

In light of the urgent nature of this issue, I am send this e-mail.

As I understand it, you have been violating the terms of your proposed agreement - non-disparagement.

Am I to assume this means you wish to pursue this matter in court?

Gmail - Re: Princip/Martin Civil Extortion Matter

Please advise immediately.

Regards,

Paul Smoot

Paul J. Smoot
Law Office of Paul J. Smoot
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To reply, send an email to pjsmoot@gmail.com.

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Gmail - Re: Princip/Martin Civil Extortion Matter

EXHIBIT 17

Gmail - YouTube/Videogames



Paul Smoot <pjsmoot@gmail.com>

YouTube/Videogames

1 message

Paul Smoot <pjsmoot@gmail.com>

Wed, Oct 2, 2013 at 1:54 PM

To: Marko Prince <my.raw.nerve@gmail.com>, "MarkosDadYT ." <princip.marko@gmail.com>, Brian D'Mart <my3Dworldyt@gmail.com>

Dear Messrs. Princip and Martin:

I am happy to address the Leah Cone matter or Futuristic Hub issue. However, I would prefer this matter is resolved.

Please review the DRAFT Settlement Agreement and Mutual Release.

As a courtesy, I strongly encourage and urge you to have legal representation review the agreement and advise you.

Please note we must agree on public statements.

If you have any comments, please let me know.

As soon as my clients have reviewed, I will advise of any further revisions.

Regards.

Paul Smoot

--
Paul J. Smoot
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F: (650) 548-0901

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To reply, send an email to pjsmoot@gmail.com.


 Agr - SA01.pdf
70K

EXHIBIT 18

Gmail - Re: YouTube/Videogames



Paul Smoot <pjsmoot@gmail.com>

Re: YouTube/Videogames

1 message

Marko Princip <my.raw.nerve@gmail.com>

Wed, Oct 2, 2013 at 2:37 PM

To: Paul Smoot <pjsmoot@gmail.com>

Thanks for sending the agreement. Give me some time to look over it and I'll be back to you with a response tomorrow.

Best,

Marko

On Wed, Oct 2, 2013 at 3:54 PM, Paul Smoot <pjsmoot@gmail.com> wrote:

Dear Messrs. Princip and Martin:

I am happy to address the Leah Cone matter or Futuristic Hub issue. However, I would prefer this matter is resolved.

Please review the DRAFT Settlement Agreement and Mutual Release.

As a courtesy, I strongly encourage and urge you to have legal representation review the agreement and advise you.

Please note we must agree on public statements.

If you have any comments, please let me know.

As soon as my clients have reviewed, I will advise of any further revisions.

Regards.

Paul Smoot

--

Paul J. Smoot
Law Office of Paul J. Smoot
1720 S. Amphlett Blvd., Suite 104
San Mateo, CA 94402
T: (650) 548-0900
F: (650) 548-0901

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Gmail - Re: YouTube/Videogames

To reply, send an email to pjsmoot@gmail.com.

Gmail - Re: YouTube/Videogames



Paul Smoot <pjsmoot@gmail.com>

Re: YouTube/Videogames

1 message

Paul Smoot <pjsmoot@gmail.com>

Wed, Oct 2, 2013 at 2:41 PM

To: Marko Princip <my.raw.nerve@gmail.com>

Please take your time.

I would get counsel, if you and Brian do not already have counsel.

Please make sure no further "issues" arise with Brian or his folks.

I understand Futuristic Hub is his and Leah Cone was something he participated in as well.

Thank you.

Paul Smoot

On Wed, Oct 2, 2013 at 2:37 PM, Marko Princip <my.raw.nerve@gmail.com> wrote:

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Best,

Marko

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